

DEC 21 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: BOOKER THEODORE WADE, Jr.,

Debtor.

BOOKER THEODORE WADE, Jr.,

Petitioner-Appellant,

v.

ARLENE STEVENS,

Respondent-Appellee,

and

FRED HJELMESET; OFFICE OF THE
US TRUSTEE/SJ,

Trustees.

No. 15-16922

D.C. No. 5:14-cv-05628-LHK

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Lucy H. Koh, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Booker Theodore Wade, Jr., appeals pro se from the district court's order dismissing Wade's bankruptcy appeal for failure to prosecute after Wade failed to file his opening brief. We have jurisdiction under 28 U.S.C. §§ 158(d), 1291. We review for an abuse of discretion a district court's dismissal for failure to prosecute. *Moneymaker v. CoBen (In re Eisen)*, 31 F.3d 1447, 1451 (9th Cir. 1994). We affirm.

The district court did not abuse its discretion in dismissing Wade's bankruptcy appeal after determining that the delay caused by Wade's failure to file an opening brief was unreasonable and interfered with the district court's ability to manage its docket. *See id.* ("A reviewing court will give deference to the district court to decide what is unreasonable because it is in the best position to determine what period of delay can be endured before its docket becomes unmanageable" (citations omitted)).

We reject as without merit Wade's contentions that the district court exhibited bias in dismissing his appeal for failure prosecute.

AFFIRMED.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.